

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 701 – HB 1108

April 15, 2013

SUMMARY OF ORIGINAL BILL: Redefines certain offenses for which an offender is eligible for expunction pursuant to Tenn. Code Ann. § 40-32-101(g)(1)(A) by deleting the parenthetical descriptors of value for value-based offenses such as theft, vandalism and forgery.

Redefines “eligible petitioner” to include individuals that seek expunction for multiple offenses. A person is an “eligible petitioner” if:

- The person has two or more convictions;
- Each conviction sought to be expunged is not an offense prohibited under Tenn. Code Ann. § 40-32-121;
- The offenses are the only ones the person has been convicted of;
- Judgment for the offenses were entered by the same court on the same day; and
- The court having jurisdiction to expunge finds that the convictions arose from a common criminal episode.

Authorizes the eligible petitioner’s attorney to draft the petition and expunction order. Currently, the office of the district attorney general prepares the petition and proposed order.

Requires a \$350 fee for those petitioners with multiple convictions to get their records expunged.

Specifies documents that a petitioner is entitled to have destroyed if the expunction petition is granted, such as arrest warrant, indictment, information, and trial. Establishes a right to appeal from a denied expunction petition.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$200/TBI
\$400/District Attorneys Expunction Fund
\$50/Public Defenders Expunction Fund
\$400/General Fund

Increase Local Revenue – Not Significant

SUMMARY OF AMENDMENTS (005750, 006162): Deletes all language after the enacting clause. Makes technical corrections to the bill and one substantive change. Adds attempts, solicitations, and conspiracies of the offenses enumerated in the bill for which one can

have his record expunged. Adds offenses that a felon is criminally responsible to the enumerated offenses for which one may have his record expunged.

Amendment 006162 adds language to Section 4 of the bill that allows eligible petitioner to have record expunged with traffic violations not excluded from expunction under Tenn. Code Ann. § 40-32-101 on his record. Under current law, one can only have his record expunged if he has “never been convicted of any criminal offense” except for the offense for which expunction is sought. The amendment would allow a petitioner to have his record expunged even though he has been convicted of criminal traffic violations not excluded from expunction under Tenn. Code Ann. § 40-32-101.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Tenn. Code Ann. § 40-32-121(g)(1)(A) expressly states that a petitioner is only “eligible” to have records expunged for “one of the following Class E felonies.” The parenthetical descriptors do not restrict the list of offenses to Class E felonies, the express intent of (g)(1)(A) does; therefore, deleting the parenthetical descriptors for the value-based offenses will not significantly impact the number of individuals who are eligible to have records expunged.
- Under Tenn. Code Ann. § 40-32-101(g)(10), the \$350.00 fee one pays for having records expunged is distributed as follows:
 - \$10.00 to the court clerk collecting the fee;
 - \$50.00 to the Tennessee Bureau of Investigation (TBI);
 - The remainder (\$290.00) is distributed:
 - 5 percent (\$14.50) to the public defenders expunction fund;
 - 45 percent (\$130.50) to the district attorneys expunction fund;
 - 50 percent (\$145.00) to the state general fund.
- It is assumed that the bill would result in approximately three additional filings per year for felons that meet the criteria of multiple convictions from a common criminal episode of which none are prohibited offenses.
- The bill would result in increased revenue of \$1,050 (\$350 x 3) and will be distributed as follows:
 - \$30.00 (\$10 x 3) to the court clerks;
 - \$150.00 (\$50 x 3) to the TBI;
 - \$43.50 (\$14.50 x 3) to the public defenders expunction fund;
 - \$391.50 (\$130.50 x 3) to the district attorneys expunction fund;
 - \$435.00 (\$145 x 3) to the general fund.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm